

AMENDED IN ASSEMBLY APRIL 27, 2010

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 2676**

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**Introduced by Assembly Member Ma**

February 19, 2010

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~~An act to amend Sections 6452.1, 6453, 6487.3, 6829, and 18510 of, and to add Sections 6225.1, 7984, 9034, 43448.6, 45609.6, 46465, 55210, and 60494 to, the Revenue and Taxation Code, and to amend~~  
*An act to amend Sections 6453 and 6829 of, to add Sections 7984, 9034, 43448.6, 45609.6, 46465, 55210, and 60494 to, and to repeal and add Sections 6452.1, 6487.3, and 18510 of, the Revenue and Taxation Code, and to amend Section 1088.5 of the Unemployment Insurance Code, relating to taxation.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 2676, as amended, Ma. State Board of Equalization: administration.

The Sales and Use Tax Law imposes a sales tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or a use tax on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, measured by sales price. Use tax is imposed on the purchaser, who is liable for the tax and must pay the tax to the State Board of Equalization, unless he or she has paid the use tax to a retailer registered to collect the use tax.

Existing law requires retailers, as specified, to register with, and to obtain a seller's permit or certification of registration-use tax from, the State Board of Equalization. For taxable years beginning on January 1, 2003, and ending on December 31, 2009, persons not otherwise registered with the board may make an irrevocable election to report qualified use tax, as defined, on that person's income tax return. The Franchise Tax Board is required to revise the income tax returns to allow a person to report and remit qualified use taxes to it and to remit the qualified use taxes collected to the board.

This bill would continue the authorization for an eligible person to make an irrevocable election to report qualified use tax, as defined, on that person's income tax return, for taxable years ~~ending after December 31, 2009~~ *beginning on and after January 1, 2010*, and would require the Franchise Tax Board to continue to allow a person to report and remit qualified use taxes to it and to remit the qualified use taxes collected to the board.

~~The Sales and Use Tax Law also requires a person having annual gross receipts from business operations of \$100,000 or more, who is not registered with the board, to register with the board and annually report and pay use tax, other than with respect to a purchase of a vehicle, vessel, or aircraft.~~

~~This bill would require a person not registered with the board, who regularly incurs a specified use tax liability annually, other than a liability with respect to the purchase of a vehicle, vessel, or aircraft, to also register with the board and annually report and pay use tax.~~

The Sales and Use Tax Law imposes personal liability for unpaid taxes, interest, and penalties on specified responsible persons who willfully fail to pay these amounts, upon the termination, dissolution, or abandonment of business of the corporation or other business entity, with the sum due to be collected by deficiency determination and collection in the manner provided under this law.

This bill would also impose personal liability under the Sales and Use Tax Law for unpaid taxes, interest, and penalties on specified responsible persons who fail to pay these amounts during the time the rights, powers, and responsibilities of a closely held corporation or closely held limited liability company are suspended, as specified.

This bill would additionally impose responsible person liability for unpaid taxes or fees, interest, and penalties on specified responsible persons who willfully fail to pay these amounts, upon the termination, dissolution, or abandonment of business of the corporation or other

business entity, or who fail to pay these amounts during the time the rights, powers, and responsibilities of a closely held corporation or closely held limited liability company are suspended, as specified, under the Motor Vehicle Fuel Tax Law, Use Fuel Tax Law, Hazardous Substances Tax Law, Integrated Waste Management Fee Law, Oil Spill Response, Prevention, and Administration Fees Law, Fee Collection Procedures Law, and Diesel Fuel Tax Law.

Existing law provides for the payment of unemployment compensation benefits to eligible unemployed individuals, and requires the Employment Development Department to implement and administer the unemployment insurance system in the state. Existing law requires each employer to file with the department a report of wages paid to his or her workers and to furnish to each employee a written statement showing, among other things, the total amount of wages, and total wages subject to personal income tax, as provided. Existing law also requires each employer to file with the department specified information on new employees, and authorizes the use of that information for specified purposes including, among other things, providing employer or employee information to the Franchise Tax Board for the purpose of tax enforcement.

This bill would also authorize the Employment Development Department to provide employer or employee information to the State Board of Equalization with information for tax or fee enforcement.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 6452.1 of the Revenue and Taxation Code  
2     is repealed.  
3     ~~6452.1. (a) Notwithstanding Section 6451, every person that~~  
4     ~~purchases tangible personal property, the storage, use, or other~~  
5     ~~consumption of which is subject to qualified use tax, as defined~~  
6     ~~in subdivision (b), that is otherwise required to report and remit~~  
7     ~~that tax pursuant to this part, may elect to report and remit qualified~~  
8     ~~use tax on an acceptable tax return.~~  
9     ~~(b) (1) A person that reports qualified use tax on an acceptable~~  
10    ~~tax return is deemed to have made the election authorized by this~~  
11    ~~section.~~

~~(2) (A) In the case of a married individual filing a separate California personal income tax return, an election may be made to report either one-half of the qualified use tax or the entire qualified use tax on his or her separate California personal income tax return.~~

~~(B) If an individual elects to report one-half of the qualified use tax, that election will not be binding with respect to the remaining one-half of the qualified use tax owed by that individual and that individual's spouse.~~

~~(c) An election to report qualified use tax on an acceptable tax return shall be irrevocable. An acceptable tax return that contains use tax shall be considered a tax return for purposes of this part.~~

~~(d) For purposes of this section:~~

~~(1) "Acceptable tax return" means a timely filed original return that is filed pursuant to Article 1 (commencing with Section 18501), Article 2 (commencing with Section 18601), Section 18633, Section 18633.5 of Chapter 2 (commencing with Section 18501) of Part 10.2, or Article 3 (commencing with Section 23771) of Chapter 4 of Part 11.~~

~~(2) (A) Except as provided in subparagraph (B), "qualified use tax" means the use tax imposed under this part, Section 35 of Article XIII of the California Constitution, the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)), or the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)) that has not been paid to a retailer holding a seller's permit or certificate of registration-use tax.~~

~~(B) "Qualified use tax" does not include:~~

~~(i) Use tax that applies to a mobilehome or a commercial coach that is required to be registered annually pursuant to the Health and Safety Code or use tax that applies to a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, or to a vehicle that qualifies under the permanent trailer identification plate program pursuant to subdivision (a) of Section 5014.1 of the Vehicle Code.~~

~~(ii) Use tax imposed on a vehicle, vessel, or aircraft.~~

~~(iii) Use tax imposed on a lessee of tangible personal property.~~

~~(e) If a person elects to report qualified use tax on an acceptable tax return, that person shall comply with all of the following:~~

1     ~~(1) The qualified use tax shall be reported on and remitted with~~  
2     ~~an acceptable tax return.~~

3     ~~(2) The qualified use tax shall be reported on and remitted with~~  
4     ~~an acceptable tax return that is required to be filed for the taxable~~  
5     ~~year in which the liability for the qualified use tax was incurred.~~

6     ~~(f) (1) The penalties and interest imposed under this part, the~~  
7     ~~Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5~~  
8     ~~(commencing with Section 7200)), or the Transactions and Use~~  
9     ~~Tax Law (Part 1.6 (commencing with Section 7251)) shall apply~~  
10    ~~to use tax reported as qualified use tax on an acceptable return.~~

11    ~~(2) Any claims for refunds or credits of any use tax reported as~~  
12    ~~qualified use tax on an acceptable tax return shall be made in~~  
13    ~~accordance with Chapter 7 (commencing with Section 6901) of~~  
14    ~~this part.~~

15    ~~(3) Qualified use tax shall be considered to be timely reported~~  
16    ~~and remitted for purposes of this part, the Bradley-Burns Uniform~~  
17    ~~Local Sales and Use Tax Law (Part 1.5 (commencing with Section~~  
18    ~~7200)), and the Transactions and Use Tax Law (Part 1.6~~  
19    ~~(commencing with Section 7251)), if the qualified use tax is timely~~  
20    ~~reported on and remitted with an acceptable tax return in~~  
21    ~~accordance with the provisions of this section.~~

22    ~~(g) Notwithstanding a person's election to remit and to report~~  
23    ~~qualified use tax on an acceptable tax return, the State Board of~~  
24    ~~Equalization is not precluded from making any determinations for~~  
25    ~~understatements of qualified use tax against that person in~~  
26    ~~accordance with Part 5 (commencing with Section 6451).~~

27    ~~(h) Any payments and credits shown on the return, together~~  
28    ~~with any other credits associated with that person's account, of a~~  
29    ~~person that elects to report qualified use tax on an acceptable tax~~  
30    ~~return shall be applied in the following order:~~

31    ~~(1) Taxes imposed under Part 10 (commencing with Section~~  
32    ~~17001) or Part 11 (commencing with Section 23001), including~~  
33    ~~penalties and interest, if any, imposed under Part 10.2 (commencing~~  
34    ~~with Section 18041).~~

35    ~~(2) Qualified use tax reported on the acceptable tax return in~~  
36    ~~accordance with this section.~~

37    ~~(i) (1) This section does not apply to a person who is otherwise~~  
38    ~~required to hold a seller's permit or to register with the State Board~~  
39    ~~of Equalization pursuant to Part 1 (commencing with Section 6001)~~  
40    ~~of this division.~~

~~(2) This section applies to purchases of tangible personal property made on or after January 1, 2003, in taxable years beginning on or after January 1, 2003, and on or before December 31, 2009, and as of that date becomes inoperative, unless a later enacted statute extends the operation of this section.~~

~~(3) Notwithstanding this section becoming inoperative as described in paragraph (2), any provisions in this section or Section 18510 relating to collection activities attributable to qualified use taxes reported prior to the inoperative date of this section shall continue in the same manner as if this section were still operative.~~

*SEC. 2. Section 6452.1 is added to the Revenue and Taxation Code, to read:*

*6452.1. (a) Notwithstanding Section 6451, every person that purchases tangible personal property, the storage, use, or other consumption of which is subject to qualified use tax, as defined in subdivision (b), that is otherwise required to report and remit that tax pursuant to this part, may elect to report and remit qualified use tax on an acceptable tax return.*

*(b) (1) A person that reports qualified use tax on an acceptable tax return is deemed to have made the election authorized by this section.*

*(2) (A) In the case of a married individual filing a separate California personal income tax return, an election may be made to report either one-half of the qualified use tax or the entire qualified use tax on his or her separate California personal income tax return.*

*(B) If an individual elects to report one-half of the qualified use tax, that election will not be binding with respect to the remaining one-half of the qualified use tax owed by that individual and that individual's spouse.*

*(c) An election to report qualified use tax on an acceptable tax return shall be irrevocable. An acceptable tax return that contains use tax shall be considered a tax return for purposes of this part.*

*(d) For purposes of this section:*

*(1) "Acceptable tax return" means a timely filed original return that is filed pursuant to Article 1 (commencing with Section 18501), Article 2 (commencing with Section 18601), Section 18633, Section 18633.5 of Chapter 2 (commencing with Section 18501) of Part 10.2, or Article 3 (commencing with Section 23771) of Chapter 4 of Part 11.*

1 (2) (A) *Except as provided in subparagraph (B), “qualified use*  
2 *tax” means the use tax imposed under this part, Section 35 of*  
3 *Article XIII of the California Constitution, the Bradley-Burns*  
4 *Uniform Local Sales and Use Tax Law (Part 1.5 (commencing*  
5 *with Section 7200)), or the Transactions and Use Tax Law (Part*  
6 *1.6 (commencing with Section 7251)) that has not been paid to a*  
7 *retailer holding a seller’s permit or certificate of registration-use*  
8 *tax.*

9 (B) *“Qualified use tax” does not include:*

10 (i) *Use tax that applies to a mobilehome or a commercial coach*  
11 *that is required to be registered annually pursuant to the Health*  
12 *and Safety Code or use tax that applies to a vehicle subject to*  
13 *identification under Division 16.5 (commencing with Section*  
14 *38000) of the Vehicle Code, or to a vehicle that qualifies under*  
15 *the permanent trailer identification plate program pursuant to*  
16 *subdivision (a) of Section 5014.1 of the Vehicle Code.*

17 (ii) *Use tax imposed on a vehicle, vessel, or aircraft.*

18 (iii) *Use tax imposed on a lessee of tangible personal property.*

19 (e) *If a person elects to report qualified use tax on an acceptable*  
20 *tax return, that person shall comply with all of the following:*

21 (1) *The qualified use tax shall be reported on and remitted with*  
22 *an acceptable tax return.*

23 (2) *The qualified use tax shall be reported on and remitted with*  
24 *an acceptable tax return that is required to be filed for the taxable*  
25 *year in which the liability for the qualified use tax was incurred.*

26 (f) (1) *The penalties and interest imposed under this part, the*  
27 *Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5*  
28 *(commencing with Section 7200)), or the Transactions and Use*  
29 *Tax Law (Part 1.6 (commencing with Section 7251)) shall apply*  
30 *to use tax reported as qualified use tax on an acceptable return.*

31 (2) *Any claims for refunds or credits of any use tax reported as*  
32 *qualified use tax on an acceptable tax return shall be made in*  
33 *accordance with Chapter 7 (commencing with Section 6901) of*  
34 *this part.*

35 (3) *Qualified use tax shall be considered to be timely reported*  
36 *and remitted for purposes of this part, the Bradley-Burns Uniform*  
37 *Local Sales and Use Tax Law (Part 1.5 (commencing with Section*  
38 *7200)), and the Transactions and Use Tax Law (Part 1.6*  
39 *(commencing with Section 7251)), if the qualified use tax is timely*

1 reported on and remitted with an acceptable tax return in  
2 accordance with the provisions of this section.

3 (g) Notwithstanding a person's election to remit and to report  
4 qualified use tax on an acceptable tax return, the State Board of  
5 Equalization is not precluded from making any determinations for  
6 understatements of qualified use tax against that person in  
7 accordance with Part 5 (commencing with Section 6451).

8 (h) Any payments and credits shown on the return, together  
9 with any other credits associated with that person's account, of a  
10 person that elects to report qualified use tax on an acceptable tax  
11 return shall be applied in the following order:

12 (1) Taxes imposed under Part 10 (commencing with Section  
13 17001) or Part 11 (commencing with Section 23001), including  
14 penalties and interest, if any, imposed under Part 10.2  
15 (commencing with Section 18041).

16 (2) Qualified use tax reported on the acceptable tax return in  
17 accordance with this section.

18 (i) (1) This section does not apply to a person who is otherwise  
19 required to hold a seller's permit or to register with the State  
20 Board of Equalization pursuant to Part 1 (commencing with  
21 Section 6001) of this division.

22 (2) This section applies to purchases of tangible personal  
23 property made on or after January 1, 2010, in taxable years  
24 beginning on or after January 1, 2010.

25 ~~SECTION 1. Section 6225.1 is added to the Revenue and~~  
26 ~~Taxation Code, to read:~~

27 ~~6225.1. (a) Notwithstanding Section 6225, every person who~~  
28 ~~regularly incurs a use tax liability by purchasing tangible personal~~  
29 ~~property from a retailer for storage, use, or other consumption in~~  
30 ~~this state, which is stored, used, or otherwise consumed in this~~  
31 ~~state, shall register with the board on a form prescribed by the~~  
32 ~~board and shall set forth the name and location of the person, and~~  
33 ~~other information as the board may require.~~

34 ~~(b) (1) Article 1 (commencing with Section 6451) of Chapter~~  
35 ~~5 of this part shall apply to a person who regularly incurs a use tax~~  
36 ~~liability, except that a return showing the total sales price of the~~  
37 ~~tangible personal property, purchased by the person who regularly~~  
38 ~~incurs use tax, the storage, use, or other consumption of which~~  
39 ~~became subject to the use tax during the calendar year, and which~~  
40 ~~was not paid to a retailer required to collect the use tax or which~~



1 was not paid to a retailer the person who regularly incurred the  
2 use tax reasonably believed was required to collect the tax, shall  
3 be filed, together with a remittance of the amount of tax due, with  
4 the board on or before April 15 of the next succeeding calendar  
5 year.

6 (2) ~~The first returns due under this section shall be filed on or~~  
7 ~~before April 15, 2011.~~

8 (e) ~~“Regularly” means a person incurs or has incurred one~~  
9 ~~thousand dollars (\$1,000) or more in use tax liability each calendar~~  
10 ~~year for a period of at least three consecutive calendar years.~~

11 (d) ~~This section shall not apply to a person who meets any of~~  
12 ~~the following conditions:~~

13 (1) ~~The person is required to hold a seller’s permit pursuant to~~  
14 ~~this part.~~

15 (2) ~~The person is required to be registered pursuant to Section~~  
16 ~~6226.~~

17 (3) ~~The person is a holder of a use tax direct payment permit as~~  
18 ~~described in Section 7051.3.~~

19 (4) ~~The person is otherwise registered with the board to report~~  
20 ~~use tax.~~

21 (e) ~~This section shall not apply to the purchase of a vehicle,~~  
22 ~~vessel, or aircraft as defined in Article 1 (commencing with Section~~  
23 ~~6271) of Chapter 3.5 of this part.~~

24 ~~SEC. 2. Section 6452.1 of the Revenue and Taxation Code is~~  
25 ~~amended to read:~~

26 ~~6452.1. (a) Notwithstanding Section 6451, every person that~~  
27 ~~purchases tangible personal property, the storage, use, or other~~  
28 ~~consumption of which is subject to qualified use tax, as defined~~  
29 ~~in subdivision (d), that is otherwise required to report and remit~~  
30 ~~that tax pursuant to this part, may elect to report and remit qualified~~  
31 ~~use tax on an acceptable tax return.~~

32 (b) (1) ~~A person that reports qualified use tax on an acceptable~~  
33 ~~tax return is deemed to have made the election authorized by this~~  
34 ~~section.~~

35 (2) (A) ~~In the case of a married individual filing a separate~~  
36 ~~California personal income tax return, an election may be made~~  
37 ~~to report either one-half of the qualified use tax or the entire~~  
38 ~~qualified use tax on his or her separate California personal income~~  
39 ~~tax return.~~

1     (B) If an individual elects to report one-half of the qualified use  
2 tax, that election will not be binding with respect to the remaining  
3 one-half of the qualified use tax owed by that individual and that  
4 individual's spouse.

5     (e) An election to report qualified use tax on an acceptable tax  
6 return shall be irrevocable. An acceptable tax return that contains  
7 use tax shall be considered a tax return for purposes of this part.

8     (d) For purposes of this section:

9     (1) "Acceptable tax return" means a timely filed original return  
10 that is filed pursuant to Article 1 (commencing with Section  
11 18501), Article 2 (commencing with Section 18601), Section  
12 18633, Section 18633.5 of Chapter 2 (commencing with Section  
13 18501) of Part 10.2, or Article 3 (commencing with Section 23771)  
14 of Chapter 4 of Part 11.

15     (2) (A) Except as provided in subparagraph (B), "qualified use  
16 tax" means the use tax imposed under this part, Section 35 of  
17 Article XIII of the California Constitution, the Bradley-Burns  
18 Uniform Local Sales and Use Tax Law (Part 1.5 (commencing  
19 with Section 7200)), or in accordance with the Transactions and  
20 Use Tax Law (Part 1.6 (commencing with Section 7251)) that has  
21 not been paid to a retailer holding a seller's permit or certificate  
22 of registration-use tax.

23     (B) "Qualified use tax" does not include:

24     (i) Use tax that applies to a mobilehome or a commercial coach  
25 that is required to be registered annually pursuant to the Health  
26 and Safety Code or use tax that applies to a vehicle subject to  
27 identification under Division 16.5 (commencing with Section  
28 38000) of the Vehicle Code, or to a vehicle that qualifies under  
29 the permanent trailer identification plate program pursuant to  
30 subdivision (a) of Section 5014.1 of the Vehicle Code.

31     (ii) Use tax imposed on a vehicle, vessel, or aircraft.

32     (iii) Use tax imposed on a lessee of tangible personal property.

33     (e) If a person elects to report qualified use tax on an acceptable  
34 tax return, that person shall comply with all of the following:

35     (1) The qualified use tax shall be reported on and remitted with  
36 an acceptable tax return.

37     (2) The qualified use tax shall be reported on and remitted with  
38 an acceptable tax return that is required to be filed for the taxable  
39 year in which the liability for the qualified use tax was incurred.

1     ~~(f) (1) The penalties and interest imposed under this part, the~~  
2 ~~Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5~~  
3 ~~(commencing with Section 7200)), or the Transactions and Use~~  
4 ~~Tax Law (Part 1.6 (commencing with Section 7251)) shall apply~~  
5 ~~to use tax reported as qualified use tax on an acceptable return.~~

6     ~~(2) Any claims for refunds or credits of any use tax reported as~~  
7 ~~qualified use tax on an acceptable tax return shall be made in~~  
8 ~~accordance with Chapter 7 (commencing with Section 6901) of~~  
9 ~~this part.~~

10    ~~(3) Qualified use tax shall be considered to be timely reported~~  
11 ~~and remitted for purposes of this part, the Bradley-Burns Uniform~~  
12 ~~Local Sales and Use Tax Law (Part 1.5 (commencing with Section~~  
13 ~~7200)), and the Transactions and Use Tax Law (Part 1.6~~  
14 ~~(commencing with Section 7251)), if the qualified use tax is timely~~  
15 ~~reported on and remitted with an acceptable tax return in~~  
16 ~~accordance with the provisions of this section.~~

17    ~~(g) Notwithstanding a person's election to remit and to report~~  
18 ~~qualified use tax on an acceptable tax return, the State Board of~~  
19 ~~Equalization is not precluded from making any determinations for~~  
20 ~~understatements of qualified use tax against that person in~~  
21 ~~accordance with Part 5 (commencing with Section 6451).~~

22    ~~(h) Any payments and credits shown on the return, together~~  
23 ~~with any other credits associated with that person's account, of a~~  
24 ~~person that elects to report qualified use tax on an acceptable tax~~  
25 ~~return shall be applied in the following order:~~

26    ~~(1) Taxes imposed under Part 10 (commencing with Section~~  
27 ~~17001) or Part 11 (commencing with Section 23001), including~~  
28 ~~penalties and interest, if any, imposed under Part 10.2 (commencing~~  
29 ~~with Section 18401).~~

30    ~~(2) Qualified use tax reported on the acceptable tax return in~~  
31 ~~accordance with this section.~~

32    ~~(i) (1) This section does not apply to a person who is otherwise~~  
33 ~~required to hold a seller's permit or to register with the State Board~~  
34 ~~of Equalization pursuant to Part 1 (commencing with Section 6001)~~  
35 ~~of this division.~~

36    ~~(2) This section applies to purchases of tangible personal~~  
37 ~~property made on or after January 1, 2003, in taxable years~~  
38 ~~beginning on or after January 1, 2003.~~

39    SEC. 3. Section 6453 of the Revenue and Taxation Code is  
40 amended to read:

6453. For purposes of the sales tax, the return shall show the gross receipts of the seller during the preceding reporting period and, in the case of a person who is liable for the sales tax and is not a seller, the gross receipts of such person for the period in which the liability was incurred. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total sales price of the property sold by him or her, the storage, use, or consumption of which property became subject to the use tax during the preceding reporting period; in case of a return filed by a purchaser, except as provided in Section 6452.1, the return shall show the total sales price of the property purchased by him or her, the storage, use, or consumption of which became subject to the use tax during the preceding reporting period.

The return shall also show the amount of the taxes for the period covered by the return and any other information which the board deems necessary for the proper administration of this part.

~~SEC. 4. Section 6487.3 of the Revenue and Taxation Code is amended to read:~~

~~6487.3. (a) (1) For persons that elect to report qualified use tax in accordance with Section 6452.1, except in the case of fraud, intent to avoid this part or authorized rules and regulations issued by the board, or the gross understatement of qualified use taxes, every notice of a deficiency determination with respect to the qualified use tax shall be mailed within three years after the last day for which an acceptable tax return is due or filed, whichever occurs later.~~

~~(2) In the case of a gross understatement of qualified use tax, every notice of a deficiency determination with respect to the qualified use tax shall be mailed within six years after the last day for which an acceptable tax return is due or filed, whichever occurs later.~~

~~(3) For purposes of this subdivision a “gross understatement of qualified used tax” is a deficiency that is in excess of 25 percent of the amount of qualified use tax reported on a person’s acceptable tax return. In the case of married individuals filing separate California personal income tax returns, the total amount of qualified use tax reported will be considered in determining whether there is a gross understatement of qualified use tax.~~

~~(4) For purposes of this section “acceptable tax return” means a timely filed original return that is filed pursuant to Article 1~~

1 ~~(commencing with Section 18501), Article 2 (commencing with~~  
2 ~~Section 18601), Section 18633, Section 18633.5 of Chapter 2~~  
3 ~~(commencing with Section 18501) of Part 10.2, or Article 3~~  
4 ~~(commencing with Section 23771) of Chapter 4 of Part 11.~~

5 ~~(b) This section applies to reporting of purchases of tangible~~  
6 ~~personal property made on or after January 1, 2003, in taxable~~  
7 ~~years beginning on or after January 1, 2003.~~

8 *SEC. 4. Section 6487.3 of the Revenue and Taxation Code is*  
9 *repealed.*

10 ~~6487.3. (a) (1) For persons that elect to report qualified use~~  
11 ~~tax in accordance with Section 6452.1, except in the case of fraud,~~  
12 ~~intent to avoid this part or authorized rules and regulations issued~~  
13 ~~by the board, or the gross understatement of qualified use taxes,~~  
14 ~~every notice of a deficiency determination with respect to the~~  
15 ~~qualified use tax shall be mailed within three years after the last~~  
16 ~~day for which an acceptable tax return is due or filed, whichever~~  
17 ~~occurs later.~~

18 ~~(2) In the case of a gross understatement of qualified use tax,~~  
19 ~~every notice of a deficiency determination with respect to the~~  
20 ~~qualified use tax shall be mailed within six years after the last day~~  
21 ~~for which an acceptable tax return is due or filed, whichever occurs~~  
22 ~~later.~~

23 ~~(3) For purposes of this subdivision a “gross understatement of~~  
24 ~~qualified used tax” is a deficiency that is in excess of 25 percent~~  
25 ~~of the amount of qualified use tax reported on a person’s acceptable~~  
26 ~~tax return. In the case of married individuals filing separate~~  
27 ~~California personal income tax returns, the total amount of qualified~~  
28 ~~use tax reported will be considered in determining whether there~~  
29 ~~is a gross understatement of qualified use tax.~~

30 ~~(4) For purposes of this section “acceptable tax return” means~~  
31 ~~a timely filed original return that is filed pursuant to Article 1~~  
32 ~~(commencing with Section 18501), Article 2 (commencing with~~  
33 ~~Section 18601), Section 18633, Section 18633.5 of Chapter 2~~  
34 ~~(commencing with Section 18501) of Part 10.2, or Article 3~~  
35 ~~(commencing with Section 23771) of Chapter 4 of Part 11.~~

36 ~~(b) This section applies to reporting of purchases of tangible~~  
37 ~~personal property made on or after January 1, 2003, in taxable~~  
38 ~~years beginning on or after January 1, 2003, and on or before~~  
39 ~~December 31, 2009, and as of that latter date becomes inoperative,~~  
40 ~~unless a later enacted statute extends the operation of this section.~~

1     SEC. 5. Section 6487.3 is added to the Revenue and Taxation  
2     Code, to read:

3     6487.3. (a) (1) For persons that elect to report qualified use  
4     tax in accordance with Section 6452.1, except in the case of fraud,  
5     intent to avoid this part or authorized rules and regulations issued  
6     by the board, or the gross understatement of qualified use taxes,  
7     every notice of a deficiency determination with respect to the  
8     qualified use tax shall be mailed within three years after the last  
9     day for which an acceptable tax return is due or filed, whichever  
10    occurs later.

11    (2) In the case of a gross understatement of qualified use tax,  
12    every notice of a deficiency determination with respect to the  
13    qualified use tax shall be mailed within six years after the last day  
14    for which an acceptable tax return is due or filed, whichever occurs  
15    later.

16    (3) For purposes of this subdivision a “gross understatement  
17    of qualified used tax” is a deficiency that is in excess of 25 percent  
18    of the amount of qualified use tax reported on a person’s  
19    acceptable tax return. In the case of married individuals filing  
20    separate California personal income tax returns, the total amount  
21    of qualified use tax reported will be considered in determining  
22    whether there is a gross understatement of qualified use tax.

23    (4) For purposes of this section “acceptable tax return” means  
24    a timely filed original return that is filed pursuant to Article 1  
25    (commencing with Section 18501), Article 2 (commencing with  
26    Section 18601), Section 18633, Section 18633.5 of Chapter 2  
27    (commencing with Section 18501) of Part 10.2, or Article 3  
28    (commencing with Section 23771) of Chapter 4 of Part 11.

29    (b) This section applies to reporting of purchases of tangible  
30    personal property made on or after January 1, 2010, in taxable  
31    years beginning on or after January 1, 2010.

32    ~~SEC. 5.~~

33    SEC. 6. Section 6829 of the Revenue and Taxation Code is  
34    amended to read:

35    6829. (a) Upon the termination, dissolution, or abandonment  
36    of the business of a corporation, partnership, limited partnership,  
37    limited liability partnership, or limited liability company, any  
38    officer, member, manager, partner, or other person having control  
39    or supervision of, or who is charged with the responsibility for the  
40    filing of returns or the payment of tax, or who is under a duty to

1 act for the corporation, partnership, limited partnership, limited  
2 liability partnership, or limited liability company in complying  
3 with any requirement of this part, shall, notwithstanding any  
4 provision in the Corporations Code to the contrary, be personally  
5 liable for any unpaid taxes and interest and penalties on those  
6 taxes, if the officer, member, manager, partner, or other person  
7 willfully fails to pay or to cause to be paid any taxes due from the  
8 corporation, partnership, limited partnership, limited liability  
9 partnership, or limited liability company pursuant to this part.

10 (b) The officer, member, manager, partner, or other person shall  
11 be liable only for taxes that became due during the period he or  
12 she had the control, supervision, responsibility, or duty to act for  
13 the corporation, partnership, limited partnership, limited liability  
14 partnership, or limited liability company described in subdivision  
15 (a), plus interest and penalties on those taxes.

16 (c) Personal liability may be imposed pursuant to this section,  
17 only if the board can establish that the corporation, partnership,  
18 limited partnership, limited liability partnership, or limited liability  
19 company had included tax reimbursement in the selling price of,  
20 or added tax reimbursement to the selling price of, tangible  
21 personal property sold in the conduct of its business, or when it  
22 can be established that the corporation, partnership, limited  
23 partnership, limited liability partnership, or limited liability  
24 company consumed tangible personal property and failed to pay  
25 the tax to the seller or has included use tax on the billing and  
26 collected the use tax or has issued a receipt for the use tax and  
27 failed to report and pay use tax.

28 (d) (1) Upon suspension of a closely held corporation or closely  
29 held limited liability company, a corporate officer, shareholder,  
30 or member with control over operations or management of the  
31 closely held corporation or closely held limited liability company  
32 during a time in which the corporation's or limited liability  
33 company's powers, rights, and privileges are suspended or any  
34 responsible person who fails to pay or to cause to be paid any taxes  
35 due from the closely held corporation or closely held limited  
36 liability company during a time in which the corporation's or  
37 limited liability company's powers, rights, and privileges are  
38 suspended shall, notwithstanding any provision in the Corporations  
39 Code to the contrary, be personally liable under the circumstances  
40 set forth below for any unpaid sales or use tax liability of that

1 suspended corporation or limited liability company incurred during  
2 the period of that suspension. The corporate officer, shareholder,  
3 member, or responsible person shall be liable for the unpaid tax,  
4 and interest and penalties on those taxes not paid, regardless of  
5 the basis for the suspension of the corporation's or limited liability  
6 company's powers, rights, and privileges.

7 (2) Notwithstanding paragraph (1), if the closely held  
8 corporation or closely held limited liability company can establish  
9 that it has taken all actions necessary to qualify for revival within  
10 60 days from the date the suspension was imposed, no corporate  
11 officer, shareholder, member, or responsible person shall be held  
12 to be personally liable for any unpaid tax, interest, or penalty  
13 incurred by the corporation or limited liability company during  
14 that period of suspension.

15 (e) Personal liability under subdivision (d) applies only when  
16 the board establishes that, during the period of suspension, the  
17 *closely held* corporation or *closely held* limited liability company  
18 did any of the following:

19 (1) Sold tangible personal property in the conduct of its business  
20 and collected sales tax reimbursement on the selling price (whether  
21 separately itemized or included in the selling price) and failed to  
22 remit such tax when due.

23 (2) Collected use tax and failed to report and pay the tax.

24 (3) Consumed tangible personal property and failed to pay the  
25 applicable tax to the seller or the board.

26 (f) For purposes of subdivisions (d) and (e), all of the following  
27 definitions shall apply:

28 (1) "Closely held corporation" means a corporation in which  
29 ownership is concentrated in one individual, one family, or a small  
30 number of individuals and the majority stockholders manage the  
31 business or have delegated or assigned the management to the  
32 corporate officers.

33 (2) "Closely held limited liability company" means a limited  
34 liability company in which ownership is concentrated in one  
35 individual, one family, or a small number of individuals and the  
36 majority members manage the business or have delegated or  
37 assigned the management to the company officers.

38 (3) "Control over operations or management" means the power  
39 to manage or affect day-to-day operations of the business. For the  
40 purposes of subdivisions (d) and (e), it is rebuttably presumed that



1 a corporate or company officer has control over operations and  
2 management of the closely held corporation or closely held limited  
3 liability company, respectively.

4 (4) (i) “Period of suspension” means that period of time,  
5 beginning on the date the suspension is imposed, during which a  
6 closely held corporation or closely held limited liability company  
7 was suspended for any reason.

8 (ii) Notwithstanding clause (i), “period of suspension” does not  
9 mean a period of time of 60 consecutive days or less, beginning  
10 on the day the suspension was imposed, during which a closely  
11 held corporation or closely held limited liability company was  
12 suspended, but only if the corporation or limited liability company  
13 has taken all actions necessary to qualify for revival on or before  
14 the 60th day.

15 (5) “Responsible person” means any officer, shareholder, or  
16 member who is charged with the responsibility for the filing of  
17 returns or the payment of tax or who has a duty to act for the  
18 closely held corporation or closely held limited liability company  
19 in complying with any provision of this part, and who derives a  
20 direct financial benefit from the failure to pay the tax liability.

21 (g) A suspended corporation or limited liability company shall  
22 remain liable for the unpaid tax, interest, and penalties incurred  
23 during the period in which its corporate or limited liability company  
24 powers, rights, and privileges were suspended without regard to  
25 any personal liability determined under subdivisions (d), (e), and  
26 (f). Payments made pursuant to subdivisions (d), (e), and (f) shall  
27 be applied to the liability of the corporation or limited liability  
28 company.

29 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
30 to pay or to cause to be paid” means that the failure was the result  
31 of an intentional, conscious, and voluntary course of action.

32 (i) Except as provided in subdivision (j), the sum due for the  
33 liability under this section may be collected by determination and  
34 collection in the manner provided in Chapter 5 (commencing with  
35 Section 6451) and Chapter 6 (commencing with Section 6701).

36 (j) A notice of deficiency determination under this section shall  
37 be mailed within three years after the last day of the calendar month  
38 following the quarterly period in which the board obtains actual  
39 knowledge, through its audit or compliance activities, or by written  
40 communication by the business or its representative, of the

1 termination, dissolution, or abandonment of the business of the  
2 corporation, partnership, limited partnership, limited liability  
3 partnership, or limited liability company, or of the suspension of  
4 the closely held corporation or closely held limited liability  
5 company, or, within eight years after the last day of the calendar  
6 month following the quarterly period in which the corporation,  
7 partnership, limited partnership, limited liability partnership, or  
8 limited liability company business was terminated, dissolved, or  
9 abandoned or in which the closely held corporation or closely held  
10 limited liability company was suspended, whichever period expires  
11 earlier. If a business or its representative files a notice of  
12 termination, dissolution, or abandonment of its business with a  
13 state or local agency other than the board, or if the Secretary of  
14 State *or the Franchise Tax Board notifies a closely held*  
15 *corporation or closely held limited liability company* that it is  
16 suspended, this filing shall not constitute actual knowledge by the  
17 board under this section.

18 (k) Notwithstanding subdivision (j), when the board mails  
19 acknowledgment to a closely held corporation or closely held  
20 limited liability company that the closely held corporation or  
21 closely held limited liability company has been suspended and the  
22 acknowledgment is mailed within three years of the date on which  
23 the board obtained actual knowledge as described in subdivision  
24 (j) of the suspension of the closely held corporation or closely held  
25 limited liability company, a notice of deficiency determination  
26 under this section shall be mailed, at the latest, within three years  
27 after the last day of the calendar month following the quarterly  
28 period following the revival of that closely held corporation or  
29 closely held limited liability company.

30 ~~SEC. 6.~~

31 *SEC. 7.* Section 7984 is added to the Revenue and Taxation  
32 Code, to read:

33 7984. (a) Upon the termination, dissolution, or abandonment  
34 of the business of a corporation, partnership, limited partnership,  
35 limited liability partnership, or limited liability company, any  
36 officer, member, manager, partner, or other person having control  
37 or supervision of, or who is charged with the responsibility for the  
38 filing of returns or the payment of tax under this part, or who is  
39 under a duty to act for the corporation, partnership, limited  
40 partnership, limited liability partnership, or limited liability

1 company in complying with any requirement of this part, shall,  
2 notwithstanding any provision in the Corporations Code to the  
3 contrary, be personally liable for any unpaid taxes and interest and  
4 penalties on those taxes, if the officer, member, manager, partner,  
5 or other person willfully fails to pay or to cause to be paid any  
6 taxes due from the corporation, partnership, limited partnership,  
7 limited liability partnership, or limited liability company pursuant  
8 to this part.

9 (b) The officer, member, manager, partner, or other person shall  
10 be liable only for taxes that became due during the period he or  
11 she had the control, supervision, responsibility, or duty to act for  
12 the corporation, partnership, limited partnership, limited liability  
13 partnership, or limited liability company described in subdivision  
14 (a), plus interest and penalties on those taxes.

15 (c) Personal liability may be imposed pursuant to this section,  
16 only if the board can establish that the corporation, partnership,  
17 limited partnership, limited liability partnership, or limited liability  
18 company had included the tax in the selling price of, or added the  
19 tax to the selling price of, motor vehicle fuel or aircraft jet fuel  
20 sold in the conduct of its business.

21 (d) (1) Upon suspension of a closely held corporation or closely  
22 held limited liability company, a corporate officer, shareholder,  
23 or member with control over operations or management of the  
24 closely held corporation or closely held limited liability company  
25 during a time in which the corporation's or limited liability  
26 company's powers, rights, and privileges are suspended or any  
27 responsible person who fails to pay or to cause to be paid any taxes  
28 due from the closely held corporation or closely held limited  
29 liability company during a time in which the corporation's or  
30 limited liability company's powers, rights, and privileges are  
31 suspended shall, notwithstanding any provision in the Corporations  
32 Code to the contrary, be personally liable under the circumstances  
33 set forth below for any unpaid tax liability of that suspended  
34 corporation or limited liability company incurred during the period  
35 of that suspension. The corporate officer, shareholder, member,  
36 or responsible person shall be liable for the unpaid tax, and interest  
37 and penalties on those taxes not paid, regardless of the basis for  
38 the suspension of the corporation's or limited liability company's  
39 powers, rights, and privileges.

(2) Notwithstanding paragraph (1), if the closely held corporation or closely held limited liability company can establish that it has taken all actions necessary to qualify for revival within 60 days from the date the suspension was imposed, no corporate officer, shareholder, member, or responsible person shall be held to be personally liable for any unpaid tax, interest, or penalty incurred by the corporation or limited liability company during that period of suspension.

(e) Personal liability under subdivision (d) applies only when the board establishes that, during the period of suspension, the closely held corporation or closely held limited liability company sold motor vehicle fuel or aircraft jet fuel in the conduct of its business and collected tax on the selling price (whether separately itemized or included in the selling price) and failed to remit such tax when due.

(f) For purposes of subdivisions (d) and (e), all of the following definitions shall apply:

(1) “Closely held corporation” means a corporation in which ownership is concentrated in one individual, one family, or a small number of individuals and the majority stockholders manage the business or have delegated or assigned the management to the corporate officers.

(2) “Closely held limited liability company” means a limited liability company in which ownership is concentrated in one individual, one family, or a small number of individuals and the majority members manage the business or have delegated or assigned the management to the company officers.

(3) “Control over operations or management” means the power to manage or affect day-to-day operations of the business. For the purposes of subdivisions (d) and (e), it is rebuttably presumed that a corporate or company officer has control over operations and management of the closely held corporation or closely held limited liability company, respectively.

(4) (i) “Period of suspension” means that period of time, beginning on the date the suspension is imposed, during which a closely held corporation or closely held limited liability company was suspended for any reason.

(ii) Notwithstanding clause (i), “period of suspension” does not mean a period of time of 60 consecutive days or less, beginning on the day the suspension was imposed, during which a closely

1 held corporation or closely held limited liability company was  
2 suspended, but only if the corporation or limited liability company  
3 has taken all actions necessary to qualify for revival on or before  
4 the 60th day.

5 (5) “Responsible person” means any officer, shareholder, or  
6 member who is charged with the responsibility for the filing of  
7 returns or the payment of tax or who has a duty to act for the  
8 closely held corporation or closely held limited liability company  
9 in complying with any provision of this part, and who derives a  
10 direct financial benefit from the failure to pay the tax liability.

11 (g) A suspended corporation or limited liability company shall  
12 remain liable for the unpaid tax, interest, and penalties incurred  
13 during the period in which its corporate or limited liability company  
14 powers, rights, and privileges were suspended without regard to  
15 any personal liability determined under subdivisions (d), (e), and  
16 (f). Payments made pursuant to subdivisions (d), (e), and (f) shall  
17 be applied to the liability of the corporation or limited liability  
18 company.

19 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
20 to pay or to cause to be paid” means that the failure was the result  
21 of an intentional, conscious, and voluntary course of action.

22 (i) Except as provided in subdivision (j), the sum due for the  
23 liability under this section may be collected by determination and  
24 collection in the manner provided in Chapter 5 (commencing with  
25 Section 7651) and Chapter 6 (commencing with Section 7851).

26 (j) A notice of deficiency determination under this section shall  
27 be mailed within three years after the last day of the calendar month  
28 following the quarterly period in which the board obtains actual  
29 knowledge, through its audit or compliance activities, or by written  
30 communication by the business or its representative, of the  
31 termination, dissolution, or abandonment of the business of the  
32 corporation, partnership, limited partnership, limited liability  
33 partnership, or limited liability company, or of the suspension of  
34 the closely held corporation or closely held limited liability  
35 company, or, within eight years after the last day of the calendar  
36 month following the quarterly period in which the corporation,  
37 partnership, limited partnership, limited liability partnership, or  
38 limited liability company business was terminated, dissolved, or  
39 abandoned or in which the closely held corporation or closely held  
40 limited liability company was suspended, whichever period expires

1 earlier. If a business or its representative files a notice of  
2 termination, dissolution, or abandonment of its business with a  
3 state or local agency other than the board, or if the Secretary of  
4 State or the Franchise Tax Board notifies a closely held corporation  
5 or closely held limited liability company that it is suspended, such  
6 filing or notice shall not constitute actual knowledge by the board  
7 under this section.

8 (k) Notwithstanding subdivision (j), when the board mails  
9 acknowledgment to a closely held corporation or closely held  
10 limited liability company that the closely held corporation or  
11 closely held limited liability company has been suspended and the  
12 acknowledgment is mailed within three years of the date on which  
13 the board obtained actual knowledge as described in subdivision  
14 (j) of the suspension of the closely held corporation or closely held  
15 limited liability company, a notice of deficiency determination  
16 under this section shall be mailed, at the latest, within three years  
17 after the last day of the calendar month following the quarterly  
18 period following the revival of that closely held corporation or  
19 closely held limited liability company.

20 ~~SEC. 7.~~

21 *SEC. 8.* Section 9034 is added to the Revenue and Taxation  
22 Code, to read:

23 9034. (a) Upon the termination, dissolution, or abandonment  
24 of the business of a corporation, partnership, limited partnership,  
25 limited liability partnership, or limited liability company, any  
26 officer, member, manager, partner, or other person having control  
27 or supervision of, or who is charged with the responsibility for the  
28 filing of returns or the payment of tax under this part, or who is  
29 under a duty to act for the corporation, partnership, limited  
30 partnership, limited liability partnership, or limited liability  
31 company in complying with any requirement of this part, shall,  
32 notwithstanding any provision in the Corporations Code to the  
33 contrary, be personally liable for any unpaid taxes and interest and  
34 penalties on those taxes, if the officer, member, manager, partner,  
35 or other person willfully fails to pay or to cause to be paid any  
36 taxes due from the corporation, partnership, limited partnership,  
37 limited liability partnership, or limited liability company pursuant  
38 to this part.

39 (b) The officer, member, manager, partner, or other person shall  
40 be liable only for taxes that became due during the period he or

1 she had the control, supervision, responsibility, or duty to act for  
2 the corporation, partnership, limited partnership, limited liability  
3 partnership, or limited liability company described in subdivision  
4 (a), plus interest and penalties on those taxes.

5 (c) Personal liability may be imposed pursuant to this section,  
6 only if the board can establish that the corporation, partnership,  
7 limited partnership, limited liability partnership, or limited liability  
8 company had included the tax in the selling price of, or added the  
9 tax to the selling price of, fuel, as defined in Section 8604, sold in  
10 the conduct of its business.

11 (d) (1) Upon suspension of a closely held corporation or closely  
12 held limited liability company, a corporate officer, shareholder,  
13 or member with control over operations or management of the  
14 closely held corporation or closely held limited liability company  
15 during a time in which the corporation's or limited liability  
16 company's powers, rights, and privileges are suspended or any  
17 responsible person who fails to pay or to cause to be paid any taxes  
18 due from the closely held corporation or closely held limited  
19 liability company during a time in which the corporation's or  
20 limited liability company's powers, rights, and privileges are  
21 suspended shall, notwithstanding any provision in the Corporations  
22 Code to the contrary, be personally liable under the circumstances  
23 set forth below for any unpaid tax liability of that suspended  
24 corporation or limited liability company incurred during the period  
25 of that suspension. The corporate officer, shareholder, member,  
26 or responsible person shall be liable for the unpaid tax, and interest  
27 and penalties on those taxes not paid, regardless of the basis for  
28 the suspension of the corporation's or limited liability company's  
29 powers, rights, and privileges.

30 (2) Notwithstanding paragraph (1), if the closely held  
31 corporation or closely held limited liability company can establish  
32 that it has taken all actions necessary to qualify for revival within  
33 60 days from the date the suspension was imposed, no corporate  
34 officer, shareholder, member, or responsible person shall be held  
35 to be personally liable for any unpaid tax, interest, or penalty  
36 incurred by the corporation or limited liability company during  
37 that period of suspension.

38 (e) Personal liability under subdivision (d) applies only when  
39 the board establishes that, during the period of suspension, the  
40 closely held corporation or closely held limited liability company

1 sold fuel, as defined in Section 8604, in the conduct of its business  
2 and collected tax on the selling price (whether separately itemized  
3 or included in the selling price) and failed to remit such tax when  
4 due.

5 (f) For purposes of subdivisions (d) and (e), all of the following  
6 definitions shall apply:

7 (1) “Closely held corporation” means a corporation in which  
8 ownership is concentrated in one individual, one family, or a small  
9 number of individuals and the majority stockholders manage the  
10 business or have delegated or assigned the management to the  
11 corporate officers.

12 (2) “Closely held limited liability company” means a limited  
13 liability company in which ownership is concentrated in one  
14 individual, one family, or a small number of individuals and the  
15 majority members manage the business or have delegated or  
16 assigned the management to the company officers.

17 (3) “Control over operations or management” means the power  
18 to manage or affect day-to-day operations of the business. For the  
19 purposes of subdivisions (d) and (e), it is rebuttably presumed that  
20 a corporate or company officer has control over operations and  
21 management of the closely held corporation or closely held limited  
22 liability company, respectively.

23 (4) (i) “Period of suspension” means that period of time,  
24 beginning on the date the suspension is imposed, during which a  
25 closely held corporation or closely held limited liability company  
26 was suspended for any reason.

27 (ii) Notwithstanding clause (i), “period of suspension” does not  
28 mean a period of time of 60 consecutive days or less, beginning  
29 on the day the suspension was imposed, during which a closely  
30 held corporation or closely held limited liability company was  
31 suspended, but only if the corporation or limited liability company  
32 has taken all actions necessary to qualify for revival on or before  
33 the 60th day.

34 (5) “Responsible person” means any officer, shareholder, or  
35 member who is charged with the responsibility for the filing of  
36 returns or the payment of tax or who has a duty to act for the  
37 closely held corporation or closely held limited liability company  
38 in complying with any provision of this part, and who derives a  
39 direct financial benefit from the failure to pay the tax liability.



1 (g) A suspended corporation or limited liability company shall  
2 remain liable for the unpaid tax, interest, and penalties incurred  
3 during the period in which its corporate or limited liability company  
4 powers, rights, and privileges were suspended without regard to  
5 any personal liability determined under subdivisions (d), (e), and  
6 (f). Payments made pursuant to subdivisions (d), (e), and (f) shall  
7 be applied to the liability of the corporation or limited liability  
8 company.

9 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
10 to pay or to cause to be paid” means that the failure was the result  
11 of an intentional, conscious, and voluntary course of action.

12 (i) Except as provided in subdivision (j), the sum due for the  
13 liability under this section may be collected by determination and  
14 collection in the manner provided in Chapter 4 (commencing with  
15 Section 8751) and Chapter 5 (commencing with Section 8951).

16 (j) A notice of deficiency determination under this section shall  
17 be mailed within three years after the last day of the calendar month  
18 following the quarterly period in which the board obtains actual  
19 knowledge, through its audit or compliance activities, or by written  
20 communication by the business or its representative, of the  
21 termination, dissolution, or abandonment of the business of the  
22 corporation, partnership, limited partnership, limited liability  
23 partnership, or limited liability company, or of the suspension of  
24 the closely held corporation or closely held limited liability  
25 company, or, within eight years after the last day of the calendar  
26 month following the quarterly period in which the corporation,  
27 partnership, limited partnership, limited liability partnership, or  
28 limited liability company business was terminated, dissolved, or  
29 abandoned or in which the closely held corporation or closely held  
30 limited liability company was suspended, whichever period expires  
31 earlier. If a business or its representative files a notice of  
32 termination, dissolution, or abandonment of its business with a  
33 state or local agency other than the board, or if the Secretary of  
34 State or the Franchise Tax Board notifies a closely held corporation  
35 or closely held limited liability company that it is suspended, such  
36 filing or notice shall not constitute actual knowledge by the board  
37 under this section.

38 (k) Notwithstanding subdivision (j), when the board mails  
39 acknowledgment to a closely held corporation or closely held  
40 limited liability company that the closely held corporation or

1 closely held limited liability company has been suspended and the  
2 acknowledgment is mailed within three years of the date on which  
3 the board obtained actual knowledge as described in subdivision  
4 (j) of the suspension of the closely held corporation or closely held  
5 limited liability company, a notice of deficiency determination  
6 under this section shall be mailed, at the latest, within three years  
7 after the last day of the calendar month following the quarterly  
8 period following the revival of that closely held corporation or  
9 closely held limited liability company.

10 ~~SEC. 8. Section 18510 of the Revenue and Taxation Code is~~  
11 ~~amended to read:~~

12 ~~18510. (a) (1) The Franchise Tax Board shall revise the returns~~  
13 ~~required to be filed pursuant to this article, Article 2 (commencing~~  
14 ~~with Section 18601), Section 18633, Section 18633.5, and Article~~  
15 ~~3 (commencing with Section 23771) of Chapter 4 of Part 11 in a~~  
16 ~~form and manner approved by the State Board of Equalization, to~~  
17 ~~allow a person to report and pay qualified use tax in accordance~~  
18 ~~with the provisions of Section 6452.1.~~

19 ~~(2) Within 10 working days of receiving from the Franchise~~  
20 ~~Tax Board the returns described in paragraph (1), the State Board~~  
21 ~~of Equalization shall do either of the following:~~

22 ~~(A) Approve the form and manner of the returns and notify the~~  
23 ~~Franchise Tax Board of this approval.~~

24 ~~(B) Submit comments to the Franchise Tax Board regarding~~  
25 ~~changes to the returns that shall be incorporated before the State~~  
26 ~~Board of Equalization approves the form and manner of the returns.~~

27 ~~(b) Any payments and credits shown on the return, together~~  
28 ~~with any other credits associated with that person's account, of a~~  
29 ~~person that elects to report qualified use tax on an acceptable tax~~  
30 ~~return shall be applied in the following order:~~

31 ~~(1) Taxes imposed under Part 10 (commencing with Section~~  
32 ~~17001) or Part 11 (commencing with Section 23001), including~~  
33 ~~penalties and interest, if any, imposed under this part.~~

34 ~~(2) Qualified use tax as reported on the acceptable tax return,~~  
35 ~~in accordance with Section 6452.1.~~

36 ~~(c) The Franchise Tax Board shall transfer the qualified use tax~~  
37 ~~received pursuant to Section 6452.1, and any information the State~~  
38 ~~Board of Equalization deems necessary for its administration of~~  
39 ~~the use tax, to the State Board of Equalization within 60 days from~~

1 ~~the date the use tax is received or the acceptable tax return is~~  
2 ~~processed, whichever is later.~~

3 ~~(d) This section shall be operative for returns filed for taxable~~  
4 ~~years on and after January 1, 2003.~~

5 *SEC. 9. Section 18510 of the Revenue and Taxation Code is*  
6 *repealed.*

7 ~~18510. (a) (1) The Franchise Tax Board shall revise the returns~~  
8 ~~required to be filed pursuant to this article, Article 2 (commencing~~  
9 ~~with Section 18601), Section 18633, Section 18633.5, and Article~~  
10 ~~3 (commencing with Section 23771) of Chapter 4 of Part 11 in a~~  
11 ~~form and manner approved by the State Board of Equalization, to~~  
12 ~~allow a person to report and pay qualified use tax in accordance~~  
13 ~~with the provisions of Section 6452.1.~~

14 ~~(2) Within 10 working days of receiving from the Franchise~~  
15 ~~Tax Board the returns described in paragraph (1), the State Board~~  
16 ~~of Equalization shall do either of the following:~~

17 ~~(A) Approve the form and manner of the returns and notify the~~  
18 ~~Franchise Tax Board of this approval.~~

19 ~~(B) Submit comments to the Franchise Tax Board regarding~~  
20 ~~changes to the returns that shall be incorporated before the State~~  
21 ~~Board of Equalization approves the form and manner of the returns.~~

22 ~~(b) Any payments and credits shown on the return, together~~  
23 ~~with any other credits associated with that person's account, of a~~  
24 ~~person that elects to report qualified use tax on an acceptable tax~~  
25 ~~return shall be applied in the following order:~~

26 ~~(1) Taxes imposed under Part 10 (commencing with Section~~  
27 ~~17001) or Part 11 (commencing with Section 23001), including~~  
28 ~~penalties and interest, if any, imposed under this part.~~

29 ~~(2) Qualified use tax as reported on the acceptable tax return,~~  
30 ~~in accordance with Section 6452.1.~~

31 ~~(c) The Franchise Tax Board shall transfer the qualified use tax~~  
32 ~~received pursuant to Section 6452.1, and any information the State~~  
33 ~~Board of Equalization deems necessary for its administration of~~  
34 ~~the use tax, to the State Board of Equalization within 60 days from~~  
35 ~~the date the use tax is received or the acceptable tax return is~~  
36 ~~processed, whichever is later.~~

37 ~~(d) This section shall be operative for returns filed for taxable~~  
38 ~~years on and after January 1, 2003, and ending on or before~~  
39 ~~December 31, 2009, and as of that date becomes inoperative, unless~~  
40 ~~a later enacted statute extends the operation of this section.~~

1     *SEC. 10. Section 18510 is added to the Revenue and Taxation*  
2     *Code, to read:*

3     18510. (a) (1) *The Franchise Tax Board shall revise the*  
4     *returns required to be filed pursuant to this article, Article 2*  
5     *(commencing with Section 18601), Section 18633, Section 18633.5,*  
6     *and Article 3 (commencing with Section 23771) of Chapter 4 of*  
7     *Part 11 in a form and manner approved by the State Board of*  
8     *Equalization, to allow a person to report and pay qualified use*  
9     *tax in accordance with the provisions of Section 6452.1.*

10    (2) *Within 10 working days of receiving from the Franchise Tax*  
11    *Board the returns described in paragraph (1), the State Board of*  
12    *Equalization shall do either of the following:*

13    (A) *Approve the form and manner of the returns and notify the*  
14    *Franchise Tax Board of this approval.*

15    (B) *Submit comments to the Franchise Tax Board regarding*  
16    *changes to the returns that shall be incorporated before the State*  
17    *Board of Equalization approves the form and manner of the*  
18    *returns.*

19    (b) *Any payments and credits shown on the return, together*  
20    *with any other credits associated with that person's account, of a*  
21    *person that elects to report qualified use tax on an acceptable tax*  
22    *return shall be applied in the following order:*

23    (1) *Taxes imposed under Part 10 (commencing with Section*  
24    *17001) or Part 11 (commencing with Section 23001), including*  
25    *penalties and interest, if any, imposed under this part.*

26    (2) *Qualified use tax as reported on the acceptable tax return,*  
27    *in accordance with Section 6452.1.*

28    (c) *The Franchise Tax Board shall transfer the qualified use*  
29    *tax received pursuant to Section 6452.1, and any information the*  
30    *State Board of Equalization deems necessary for its administration*  
31    *of the use tax, to the State Board of Equalization within 60 days*  
32    *from the date the use tax is received or the acceptable tax return*  
33    *is processed, whichever is later.*

34    (d) *This section shall be operative for returns filed for taxable*  
35    *years beginning on and after January 1, 2010.*

36    ~~SEC. 9.~~

37    *SEC. 11. Section 43448.6 is added to the Revenue and Taxation*  
38    *Code, to read:*

39    43448.6. (a) *Upon the termination, dissolution, or abandonment*  
40    *of the business of a corporation, partnership, limited partnership,*

1 limited liability partnership, or limited liability company, any  
2 officer, member, manager, partner, or other person having control  
3 or supervision of, or who is charged with the responsibility for the  
4 filing of returns or the payment of tax or fees under Sections 43051  
5 and 43151 of this part, or who is under a duty to act for the  
6 corporation, partnership, limited partnership, limited liability  
7 partnership, or limited liability company in complying with any  
8 requirement of this part pertaining to the tax or fee imposed  
9 pursuant to Sections 43051 and 43151, shall, notwithstanding any  
10 provision in the Corporations Code to the contrary, be personally  
11 liable for any unpaid taxes or fees and interest and penalties on  
12 those taxes or fees, if the officer, member, manager, partner, or  
13 other person willfully fails to pay or to cause to be paid any taxes  
14 or fees due from the corporation, partnership, limited partnership,  
15 limited liability partnership, or limited liability company pursuant  
16 to Sections 43051 and 43151 of this part.

17 (b) The officer, member, manager, partner, or other person shall  
18 be liable only for taxes or fees that became due during the period  
19 he or she had the control, supervision, responsibility, or duty to  
20 act for the corporation, partnership, limited partnership, limited  
21 liability partnership, or limited liability company described in  
22 subdivision (a), plus interest and penalties on those taxes or fees.

23 (c) Personal liability may be imposed pursuant to this section,  
24 only if the board can establish that the corporation, partnership,  
25 limited partnership, limited liability partnership, or limited liability  
26 company had collected the tax or fee on the hazardous waste  
27 submitted to it, pursuant to Section 25174.1 of the Health and  
28 Safety Code, in the conduct of its business.

29 (d) (1) Upon suspension of a closely held corporation or closely  
30 held limited liability company, a corporate officer, shareholder,  
31 or member with control over operations or management of the  
32 closely held corporation or closely held limited liability company  
33 during a time in which the corporation's or limited liability  
34 company's powers, rights, and privileges are suspended or any  
35 responsible person who fails to pay or to cause to be paid any taxes  
36 or fees due from the closely held corporation or closely held limited  
37 liability company during a time in which the corporation's or  
38 limited liability company's powers, rights, and privileges are  
39 suspended shall, notwithstanding any provision in the Corporations  
40 Code to the contrary, be personally liable under the circumstances

1 set forth below for any unpaid tax or fee liability of that suspended  
2 corporation or limited liability company incurred during the period  
3 of that suspension. The corporate officer, shareholder, member,  
4 or responsible person shall be liable for the unpaid tax or fees, and  
5 interest and penalties on those taxes or fees not paid, regardless  
6 of the basis for the suspension of the corporation's or limited  
7 liability company's powers, rights, and privileges.

8 (2) Notwithstanding paragraph (1), if the closely held  
9 corporation or closely held limited liability company can establish  
10 that it has taken all actions necessary to qualify for revival within  
11 60 days from the date the suspension was imposed, no corporate  
12 officer, shareholder, member, or responsible person shall be held  
13 to be personally liable for any unpaid tax or fees, interest, or  
14 penalty incurred by the corporation or limited liability company  
15 during that period of suspension.

16 (e) Personal liability under subdivision (d) applies only when  
17 the board establishes that, during the period of suspension, the  
18 closely held corporation or closely held limited liability company  
19 collected the tax or fee on the hazardous waste submitted to it,  
20 pursuant to Section 25174.1 of the Health and Safety Code, in the  
21 conduct of its business and failed to remit such tax or fee when  
22 due.

23 (f) For purposes of subdivisions (d) and (e), all of the following  
24 definitions shall apply:

25 (1) "Closely held corporation" means a corporation in which  
26 ownership is concentrated in one individual, one family, or a small  
27 number of individuals and the majority stockholders manage the  
28 business or have delegated or assigned the management to the  
29 corporate officers.

30 (2) "Closely held limited liability company" means a limited  
31 liability company in which ownership is concentrated in one  
32 individual, one family, or a small number of individuals and the  
33 majority members manage the business or have delegated or  
34 assigned the management to the company officers.

35 (3) "Control over operations or management" means the power  
36 to manage or affect day-to-day operations of the business. For the  
37 purposes of subdivisions (d) and (e), it is rebuttably presumed that  
38 a corporate or company officer has control over operations and  
39 management of the closely held corporation or closely held limited  
40 liability company, respectively.

1 (4) (i) “Period of suspension” means that period of time,  
2 beginning on the date the suspension is imposed, during which a  
3 closely held corporation or closely held limited liability company  
4 was suspended for any reason.

5 (ii) Notwithstanding clause (i), “period of suspension” does not  
6 mean a period of time of 60 consecutive days or less, beginning  
7 on the day the suspension was imposed, during which a closely  
8 held corporation or closely held limited liability company was  
9 suspended, but only if the corporation or limited liability company  
10 has taken all actions necessary to qualify for revival on or before  
11 the 60th day.

12 (5) “Responsible person” means any officer, shareholder, or  
13 member who is charged with the responsibility for the filing of  
14 returns or the payment of tax or fees or who has a duty to act for  
15 the closely held corporation or closely held limited liability  
16 company in complying with any provision of this part, and who  
17 derives a direct financial benefit from the failure to pay the tax or  
18 fee liability.

19 (g) A suspended corporation or limited liability company shall  
20 remain liable for the unpaid tax or fees, interest, and penalties  
21 incurred during the period in which its corporate or limited liability  
22 company powers, rights, and privileges were suspended without  
23 regard to any personal liability determined under subdivisions (d),  
24 (e), and (f). Payments made pursuant to subdivisions (d), (e), and  
25 (f) shall be applied to the liability of the corporation or limited  
26 liability company.

27 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
28 to pay or to cause to be paid” means that the failure was the result  
29 of an intentional, conscious, and voluntary course of action.

30 (i) Except as provided in subdivision (j), the sum due for the  
31 liability under this section may be collected by determination and  
32 collection in the manner provided in Chapter 3 (commencing with  
33 Section 43151) and Chapter 4 (commencing with Section 43401),  
34 as they pertain to the tax or fee imposed pursuant to Sections 43051  
35 and 43151.

36 (j) A notice of deficiency determination under this section shall  
37 be mailed within three years after the last day of the calendar month  
38 following the quarterly period in which the board obtains actual  
39 knowledge, through its audit or compliance activities, or by written  
40 communication by the business or its representative, of the

1 termination, dissolution, or abandonment of the business of the  
2 corporation, partnership, limited partnership, limited liability  
3 partnership, or limited liability company, or of the suspension of  
4 the closely held corporation or closely held limited liability  
5 company, or, within eight years after the last day of the calendar  
6 month following the quarterly period in which the corporation,  
7 partnership, limited partnership, limited liability partnership, or  
8 limited liability company business was terminated, dissolved, or  
9 abandoned or in which the closely held corporation or closely held  
10 limited liability company was suspended, whichever period expires  
11 earlier. If a business or its representative files a notice of  
12 termination, dissolution, or abandonment of its business with a  
13 state or local agency other than the board, or if the Secretary of  
14 State or the Franchise Tax Board notifies a closely held corporation  
15 or closely held limited liability company that it is suspended, such  
16 filing or notice shall not constitute actual knowledge by the board  
17 under this section.

18 (k) Notwithstanding subdivision (j), when the board mails  
19 acknowledgment to a closely held corporation or closely held  
20 limited liability company that the closely held corporation or  
21 closely held limited liability company has been suspended and the  
22 acknowledgment is mailed within three years of the date on which  
23 the board obtained actual knowledge as described in subdivision  
24 (j) of the suspension of the closely held corporation or closely held  
25 limited liability company, a notice of deficiency determination  
26 under this section shall be mailed, at the latest, within three years  
27 after the last day of the calendar month following the quarterly  
28 period following the revival of that closely held corporation or  
29 closely held limited liability company.

30 ~~SEC. 10.~~

31 *SEC. 12.* Section 45609.6 is added to the Revenue and Taxation  
32 Code, to read:

33 45609.6. (a) Upon the termination, dissolution, or abandonment  
34 of the business of a corporation, partnership, limited partnership,  
35 limited liability partnership, or limited liability company, any  
36 officer, member, manager, partner, or other person having control  
37 or supervision of, or who is charged with the responsibility for the  
38 filing of returns or the payment of fees under this part, or who is  
39 under a duty to act for the corporation, partnership, limited  
40 partnership, limited liability partnership, or limited liability



1 company in complying with any requirement of this part, shall,  
2 notwithstanding any provision in the Corporations Code to the  
3 contrary, be personally liable for any unpaid fees and interest and  
4 penalties on those fees, if the officer, member, manager, partner,  
5 or other person willfully fails to pay or to cause to be paid any fees  
6 due from the corporation, partnership, limited partnership, limited  
7 liability partnership, or limited liability company pursuant to this  
8 part.

9 (b) The officer, member, manager, partner, or other person shall  
10 be liable only for fees that became due during the period he or she  
11 had the control, supervision, responsibility, or duty to act for the  
12 corporation, partnership, limited partnership, limited liability  
13 partnership, or limited liability company described in subdivision  
14 (a), plus interest and penalties on those fees.

15 (c) Personal liability may be imposed pursuant to this section,  
16 only if the board can establish that the corporation, partnership,  
17 limited partnership, limited liability partnership, or limited liability  
18 company had collected the fee on the solid waste disposed of at  
19 each disposal site, pursuant to Section 48000 of the Public  
20 Resources Code, in the conduct of its business.

21 (d) (1) Upon suspension of a closely held corporation or closely  
22 held limited liability company, a corporate officer, shareholder,  
23 or member with control over operations or management of the  
24 closely held corporation or closely held limited liability company  
25 during a time in which the corporation's or limited liability  
26 company's powers, rights, and privileges are suspended or any  
27 responsible person who fails to pay or to cause to be paid any fees  
28 due from the closely held corporation or closely held limited  
29 liability company during a time in which the corporation's or  
30 limited liability company's powers, rights, and privileges are  
31 suspended shall, notwithstanding any provision in the Corporations  
32 Code to the contrary, be personally liable under the circumstances  
33 set forth below for any unpaid fee liability of that suspended  
34 corporation or limited liability company incurred during the period  
35 of that suspension. The corporate officer, shareholder, member,  
36 or responsible person shall be liable for the unpaid fees, and interest  
37 and penalties on those fees not paid, regardless of the basis for the  
38 suspension of the corporation's or limited liability company's  
39 powers, rights, and privileges.

(2) Notwithstanding paragraph (1), if the closely held corporation or closely held limited liability company can establish that it has taken all actions necessary to qualify for revival within 60 days from the date the suspension was imposed, no corporate officer, shareholder, member, or responsible person shall be held to be personally liable for any unpaid fees, interest, or penalty incurred by the corporation or limited liability company during that period of suspension.

(e) Personal liability under subdivision (d) applies only when the board establishes that, during the period of suspension, the closely held corporation or closely held limited liability company collected the fee on the solid waste disposed of at each disposal site, pursuant to Section 48000 of the Public Resources Code, in the conduct of its business and failed to remit such fee when due.

(f) For purposes of subdivisions (d) and (e), all of the following definitions shall apply:

(1) “Closely held corporation” means a corporation in which ownership is concentrated in one individual, one family, or a small number of individuals and the majority stockholders manage the business or have delegated or assigned the management to the corporate officers.

(2) “Closely held limited liability company” means a limited liability company in which ownership is concentrated in one individual, one family, or a small number of individuals and the majority members manage the business or have delegated or assigned the management to the company officers.

(3) “Control over operations or management” means the power to manage or affect day-to-day operations of the business. For the purposes of subdivisions (d) and (e), it is rebuttably presumed that a corporate or company officer has control over operations and management of the closely held corporation or closely held limited liability company, respectively.

(4) (i) “Period of suspension” means that period of time, beginning on the date the suspension is imposed, during which a closely held corporation or closely held limited liability company was suspended for any reason.

(ii) Notwithstanding clause (i), “period of suspension” does not mean a period of time of 60 consecutive days or less, beginning on the day the suspension was imposed, during which a closely held corporation or closely held limited liability company was

1 suspended, but only if the corporation or limited liability company  
2 has taken all actions necessary to qualify for revival on or before  
3 the 60th day.

4 (5) “Responsible person” means any officer, shareholder, or  
5 member who is charged with the responsibility for the filing of  
6 returns or the payment of fees or who has a duty to act for the  
7 closely held corporation or closely held limited liability company  
8 in complying with any provision of this part, and who derives a  
9 direct financial benefit from the failure to pay the fee liability.

10 (g) A suspended corporation or limited liability company shall  
11 remain liable for the unpaid fees, interest, and penalties incurred  
12 during the period in which its corporate or limited liability company  
13 powers, rights, and privileges were suspended without regard to  
14 any personal liability determined under subdivisions (d), (e), and  
15 (f). Payments made pursuant to subdivisions (d), (e), and (f) shall  
16 be applied to the liability of the corporation or limited liability  
17 company.

18 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
19 to pay or to cause to be paid” means that the failure was the result  
20 of an intentional, conscious, and voluntary course of action.

21 (i) Except as provided in subdivision (j), the sum due for the  
22 liability under this section may be collected by determination and  
23 collection in the manner provided in Chapter 3 (commencing with  
24 Section 45151) and Chapter 4 (commencing with Section 45401).

25 (j) A notice of deficiency determination under this section shall  
26 be mailed within three years after the last day of the calendar month  
27 following the quarterly period in which the board obtains actual  
28 knowledge, through its audit or compliance activities, or by written  
29 communication by the business or its representative, of the  
30 termination, dissolution, or abandonment of the business of the  
31 corporation, partnership, limited partnership, limited liability  
32 partnership, or limited liability company, or of the suspension of  
33 the closely held corporation or closely held limited liability  
34 company, or, within eight years after the last day of the calendar  
35 month following the quarterly period in which the corporation,  
36 partnership, limited partnership, limited liability partnership, or  
37 limited liability company business was terminated, dissolved, or  
38 abandoned or in which the closely held corporation or closely held  
39 limited liability company was suspended, whichever period expires  
40 earlier. If a business or its representative files a notice of

1 termination, dissolution, or abandonment of its business with a  
2 state or local agency other than the board, or if the Secretary of  
3 State or the Franchise Tax Board notifies a closely held corporation  
4 or closely held limited liability company that it is suspended, such  
5 filing or notice shall not constitute actual knowledge by the board  
6 under this section.

7 (k) Notwithstanding subdivision (j), when the board mails  
8 acknowledgment to a closely held corporation or closely held  
9 limited liability company that the closely held corporation or  
10 closely held limited liability company has been suspended and the  
11 acknowledgment is mailed within three years of the date on which  
12 the board obtained actual knowledge as described in subdivision  
13 (j) of the suspension of the closely held corporation or closely held  
14 limited liability company, a notice of deficiency determination  
15 under this section shall be mailed, at the latest, within three years  
16 after the last day of the calendar month following the quarterly  
17 period following the revival of that closely held corporation or  
18 closely held limited liability company.

19 ~~SEC. 11.~~

20 *SEC. 13.* Section 46465 is added to the Revenue and Taxation  
21 Code, to read:

22 46465. (a) Upon the termination, dissolution, or abandonment  
23 of the business of a corporation, partnership, limited partnership,  
24 limited liability partnership, or limited liability company, any  
25 officer, member, manager, partner, or other person having control  
26 or supervision of, or who is charged with the responsibility for the  
27 filing of returns or the payment of fees under this part, or who is  
28 under a duty to act for the corporation, partnership, limited  
29 partnership, limited liability partnership, or limited liability  
30 company in complying with any requirement of this part, shall,  
31 notwithstanding any provision in the Corporations Code to the  
32 contrary, be personally liable for any unpaid fees and interest and  
33 penalties on those fees, if the officer, member, manager, partner,  
34 or other person willfully fails to pay or to cause to be paid any fees  
35 due from the corporation, partnership, limited partnership, limited  
36 liability partnership, or limited liability company pursuant to this  
37 part.

38 (b) The officer, member, manager, partner, or other person shall  
39 be liable only for fees that became due during the period he or she  
40 had the control, supervision, responsibility, or duty to act for the

1 corporation, partnership, limited partnership, limited liability  
2 partnership, or limited liability company described in subdivision  
3 (a), plus interest and penalties on those fees.

4 (c) Personal liability may be imposed pursuant to this section,  
5 only if the board can establish that the corporation, partnership,  
6 limited partnership, limited liability partnership, or limited liability  
7 company had collected the fees on crude oil and petroleum  
8 products, pursuant to Sections 8670.40 and 8670.48 of the  
9 Government Code, in the conduct of its business.

10 (d) (1) Upon suspension of a closely held corporation or closely  
11 held limited liability company, a corporate officer, shareholder,  
12 or member with control over operations or management of the  
13 closely held corporation or closely held limited liability company  
14 during a time in which the corporation's or limited liability  
15 company's powers, rights, and privileges are suspended or any  
16 responsible person who fails to pay or to cause to be paid any fees  
17 due from the closely held corporation or closely held limited  
18 liability company during a time in which the corporation's or  
19 limited liability company's powers, rights, and privileges are  
20 suspended shall, notwithstanding any provision in the Corporations  
21 Code to the contrary, be personally liable under the circumstances  
22 set forth below for any unpaid fee liability of that suspended  
23 corporation or limited liability company incurred during the period  
24 of that suspension. The corporate officer, shareholder, member,  
25 or responsible person shall be liable for the unpaid fees, and interest  
26 and penalties on those fees not paid, regardless of the basis for the  
27 suspension of the corporation's or limited liability company's  
28 powers, rights, and privileges.

29 (2) Notwithstanding paragraph (1), if the closely held  
30 corporation or closely held limited liability company can establish  
31 that it has taken all actions necessary to qualify for revival within  
32 60 days from the date the suspension was imposed, no corporate  
33 officer, shareholder, member, or responsible person shall be held  
34 to be personally liable for any unpaid fees, interest, or penalty  
35 incurred by the corporation or limited liability company during  
36 that period of suspension.

37 (e) Personal liability under subdivision (d) applies only when  
38 the board establishes that, during the period of suspension, the  
39 closely held corporation or closely held limited liability company  
40 collected the fees on crude oil and petroleum products, pursuant

1 to Sections 8670.40 and 8670.48 of the Government Code, in the  
2 conduct of its business and failed to remit such fee when due.

3 (f) For purposes of subdivisions (d) and (e), all of the following  
4 definitions shall apply:

5 (1) “Closely held corporation” means a corporation in which  
6 ownership is concentrated in one individual, one family, or a small  
7 number of individuals and the majority stockholders manage the  
8 business or have delegated or assigned the management to the  
9 corporate officers.

10 (2) “Closely held limited liability company” means a limited  
11 liability company in which ownership is concentrated in one  
12 individual, one family, or a small number of individuals and the  
13 majority members manage the business or have delegated or  
14 assigned the management to the company officers.

15 (3) “Control over operations or management” means the power  
16 to manage or affect day-to-day operations of the business. For the  
17 purposes of subdivisions (d) and (e), it is rebuttably presumed that  
18 a corporate or company officer has control over operations and  
19 management of the closely held corporation or closely held limited  
20 liability company, respectively.

21 (4) (i) “Period of suspension” means that period of time,  
22 beginning on the date the suspension is imposed, during which a  
23 closely held corporation or closely held limited liability company  
24 was suspended for any reason.

25 (ii) Notwithstanding clause (i), “period of suspension” does not  
26 mean a period of time of 60 consecutive days or less, beginning  
27 on the day the suspension was imposed, during which a closely  
28 held corporation or closely held limited liability company was  
29 suspended, but only if the corporation or limited liability company  
30 has taken all actions necessary to qualify for revival on or before  
31 the 60th day.

32 (5) “Responsible person” means any officer, shareholder, or  
33 member who is charged with the responsibility for the filing of  
34 returns or the payment of fees or who has a duty to act for the  
35 closely held corporation or closely held limited liability company  
36 in complying with any provision of this part, and who derives a  
37 direct financial benefit from the failure to pay the fee liability.

38 (g) A suspended corporation or limited liability company shall  
39 remain liable for the unpaid fees, interest, and penalties incurred  
40 during the period in which its corporate or limited liability company

1 powers, rights, and privileges were suspended without regard to  
2 any personal liability determined under subdivisions (d), (e), and  
3 (f). Payments made pursuant to subdivisions (d), (e), and (f) shall  
4 be applied to the liability of the corporation or limited liability  
5 company.

6 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
7 to pay or to cause to be paid” means that the failure was the result  
8 of an intentional, conscious, and voluntary course of action.

9 (i) Except as provided in subdivision (j), the sum due for the  
10 liability under this section may be collected by determination and  
11 collection in the manner provided in Chapter 3 (commencing with  
12 Section 46151) and Chapter 4 (commencing with Section 46401).

13 (j) A notice of deficiency determination under this section shall  
14 be mailed within three years after the last day of the calendar month  
15 following the quarterly period in which the board obtains actual  
16 knowledge, through its audit or compliance activities, or by written  
17 communication by the business or its representative, of the  
18 termination, dissolution, or abandonment of the business of the  
19 corporation, partnership, limited partnership, limited liability  
20 partnership, or limited liability company, or of the suspension of  
21 the closely held corporation or closely held limited liability  
22 company, or, within eight years after the last day of the calendar  
23 month following the quarterly period in which the corporation,  
24 partnership, limited partnership, limited liability partnership, or  
25 limited liability company business was terminated, dissolved, or  
26 abandoned or in which the closely held corporation or closely held  
27 limited liability company was suspended, whichever period expires  
28 earlier. If a business or its representative files a notice of  
29 termination, dissolution, or abandonment of its business with a  
30 state or local agency other than the board, or if the Secretary of  
31 State or the Franchise Tax Board notifies a closely held corporation  
32 or closely held limited liability company that it is suspended, such  
33 filing or notice shall not constitute actual knowledge by the board  
34 under this section.

35 (k) Notwithstanding subdivision (j), when the board mails  
36 acknowledgment to a closely held corporation or closely held  
37 limited liability company that the closely held corporation or  
38 closely held limited liability company has been suspended and the  
39 acknowledgment is mailed within three years of the date on which  
40 the board obtained actual knowledge as described in subdivision

(j) of the suspension of the closely held corporation or closely held limited liability company, a notice of deficiency determination under this section shall be mailed, at the latest, within three years after the last day of the calendar month following the quarterly period following the revival of that closely held corporation or closely held limited liability company.

~~SEC. 12.~~

*SEC. 14.* Section 55210 is added to the Revenue and Taxation Code, to read:

55210. (a) Upon the termination, dissolution, or abandonment of the business of a corporation, partnership, limited partnership, limited liability partnership, or limited liability company, any officer, member, manager, partner, or other person having control or supervision of, or who is charged with the responsibility for the filing of returns or the payment of fees under Sections 42464, 42464.4, 42885, 42886, and 42886.1 of the Public Resources Code, or who is under a duty to act for the corporation, partnership, limited partnership, limited liability partnership, or limited liability company in complying with any requirement of this part pertaining to the fees imposed pursuant to Sections 42464, 42464.4, 42885, 42886, and 42886.1 of the Public Resources Code, shall, notwithstanding any provision in the Corporations Code to the contrary, be personally liable for any unpaid fees and interest and penalties on those fees, if the officer, member, manager, partner, or other person willfully fails to pay or to cause to be paid any fees due from the corporation, partnership, limited partnership, limited liability partnership, or limited liability company pursuant to Sections 42464, 42464.4, 42885, 42886, and 42886.1 of the Public Resources Code.

(b) The officer, member, manager, partner, or other person shall be liable only for fees that became due during the period he or she had the control, supervision, responsibility, or duty to act for the corporation, partnership, limited partnership, limited liability partnership, or limited liability company described in subdivision (a), plus interest and penalties on those fees.

(c) Personal liability may be imposed pursuant to this section, only if the board can establish that the corporation, partnership, limited partnership, limited liability partnership, or limited liability company had included the fee in the selling price of, or added the fee to the selling price of, covered electronic devices, pursuant to



1 Section 42464 of the Public Resources Code, or new tires, pursuant  
2 to Section 42885 of the Public Resources Code, sold to consumers  
3 in the conduct of its business.

4 (d) (1) Upon suspension of a closely held corporation or closely  
5 held limited liability company, a corporate officer, shareholder,  
6 or member with control over operations or management of the  
7 closely held corporation or closely held limited liability company  
8 during a time in which the corporation's or limited liability  
9 company's powers, rights, and privileges are suspended or any  
10 responsible person who fails to pay or to cause to be paid any fees  
11 due from the closely held corporation or closely held limited  
12 liability company during a time in which the corporation's or  
13 limited liability company's powers, rights, and privileges are  
14 suspended shall, notwithstanding any provision in the Corporations  
15 Code to the contrary, be personally liable under the circumstances  
16 set forth below for any unpaid fee liability of that suspended  
17 corporation or limited liability company incurred during the period  
18 of that suspension. The corporate officer, shareholder, member,  
19 or responsible person shall be liable for the unpaid fees, and interest  
20 and penalties on those fees not paid, regardless of the basis for the  
21 suspension of the corporation's or limited liability company's  
22 powers, rights, and privileges.

23 (2) Notwithstanding paragraph (1), if the closely held  
24 corporation or closely held limited liability company can establish  
25 that it has taken all actions necessary to qualify for revival within  
26 60 days from the date the suspension was imposed, no corporate  
27 officer, shareholder, member, or responsible person shall be held  
28 to be personally liable for any unpaid fees, interest, or penalty  
29 incurred by the corporation or limited liability company during  
30 that period of suspension.

31 (e) Personal liability under subdivision (d) applies only when  
32 the board establishes that, during the period of suspension, the  
33 closely held corporation or closely held limited liability company  
34 sold covered electronic devices, pursuant to Section 42464 of the  
35 Public Resources Code, or new tires, pursuant to Section 42885  
36 of the Public Resources Code, in the conduct of its business and  
37 collected the fee imposed with respect to the covered electronic  
38 devices or new tires (whether separately itemized or included in  
39 the selling price) and failed to remit such fee when due.

(f) For purposes of subdivisions (d) and (e), all of the following definitions shall apply:

(1) “Closely held corporation” means a corporation in which ownership is concentrated in one individual, one family, or a small number of individuals and the majority stockholders manage the business or have delegated or assigned the management to the corporate officers.

(2) “Closely held limited liability company” means a limited liability company in which ownership is concentrated in one individual, one family, or a small number of individuals and the majority members manage the business or have delegated or assigned the management to the company officers.

(3) “Control over operations or management” means the power to manage or affect day-to-day operations of the business. For the purposes of subdivisions (d) and (e), it is rebuttably presumed that a corporate or company officer has control over operations and management of the closely held corporation or closely held limited liability company, respectively.

(4) (i) “Period of suspension” means that period of time, beginning on the date the suspension is imposed, during which a closely held corporation or closely held limited liability company was suspended for any reason.

(ii) Notwithstanding clause (i), “period of suspension” does not mean a period of time of 60 consecutive days or less, beginning on the day the suspension was imposed, during which a closely held corporation or closely held limited liability company was suspended, but only if the corporation or limited liability company has taken all actions necessary to qualify for revival on or before the 60th day.

(5) “Responsible person” means any officer, shareholder, or member who is charged with the responsibility for the filing of returns or the payment of fees or who has a duty to act for the closely held corporation or closely held limited liability company in complying with any provision of this part, and who derives a direct financial benefit from the failure to pay the fee liability.

(g) A suspended corporation or limited liability company shall remain liable for the unpaid fees, interest, and penalties incurred during the period in which its corporate or limited liability company powers, rights, and privileges were suspended without regard to any personal liability determined under subdivisions (d), (e), and

1 (f). Payments made pursuant to subdivisions (d), (e), and (f) shall  
2 be applied to the liability of the corporation or limited liability  
3 company.

4 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
5 to pay or to cause to be paid” means that the failure was the result  
6 of an intentional, conscious, and voluntary course of action.

7 (i) Except as provided in subdivision (j), the sum due for the  
8 liability under this section may be collected by determination and  
9 collection in the manner provided in Sections 42464.2 and 42464.4  
10 or 42886 and 42886.1 of the Public Resources Code and Chapter  
11 3 (commencing with Section 55040) and Chapter 4 (commencing  
12 with Section 55121) of this part, as they pertain to the fees imposed  
13 pursuant to Sections 42464 or 42885 of the Public Resources Code.

14 (j) A notice of deficiency determination under this section shall  
15 be mailed within three years after the last day of the calendar month  
16 following the quarterly period in which the board obtains actual  
17 knowledge, through its audit or compliance activities, or by written  
18 communication by the business or its representative, of the  
19 termination, dissolution, or abandonment of the business of the  
20 corporation, partnership, limited partnership, limited liability  
21 partnership, or limited liability company, or of the suspension of  
22 the closely held corporation or closely held limited liability  
23 company, or, within eight years after the last day of the calendar  
24 month following the quarterly period in which the corporation,  
25 partnership, limited partnership, limited liability partnership, or  
26 limited liability company, business was terminated, dissolved, or  
27 abandoned or in which the closely held corporation or closely held  
28 limited liability company was suspended, whichever period expires  
29 earlier. If a business or its representative files a notice of  
30 termination, dissolution, or abandonment of its business with a  
31 state or local agency other than the board, or if the Secretary of  
32 State or the Franchise Tax Board notifies a closely held corporation  
33 or closely held limited liability company that it is suspended, such  
34 filing or notice shall not constitute actual knowledge by the board  
35 under this section.

36 (k) Notwithstanding subdivision (j), when the board mails  
37 acknowledgment to a closely held corporation or closely held  
38 limited liability company that the closely held corporation or  
39 closely held limited liability company has been suspended and the  
40 acknowledgment is mailed within three years of the date on which

1 the board obtained actual knowledge as described in subdivision  
2 (j) of the suspension of the closely held corporation or closely held  
3 limited liability company, a notice of deficiency determination  
4 under this section shall be mailed, at the latest, within three years  
5 after the last day of the calendar month following the quarterly  
6 period following the revival of that closely held corporation or  
7 closely held limited liability company.

8 ~~SEC. 13.~~

9 *SEC. 15.* Section 60494 is added to the Revenue and Taxation  
10 Code, to read:

11 60494. (a) Upon the termination, dissolution, or abandonment  
12 of the business of a corporation, partnership, limited partnership,  
13 limited liability partnership, or limited liability company, any  
14 officer, member, manager, partner, or other person having control  
15 or supervision of, or who is charged with the responsibility for the  
16 filing of returns or the payment of tax due under this part, or who  
17 is under a duty to act for the corporation, partnership, limited  
18 partnership, limited liability partnership, or limited liability  
19 company in complying with any requirement of this part, shall,  
20 notwithstanding any provision in the Corporations Code to the  
21 contrary, be personally liable for any unpaid taxes and interest and  
22 penalties on those taxes, if the officer, member, manager, partner,  
23 or other person willfully fails to pay or to cause to be paid any  
24 taxes due from the corporation, partnership, limited partnership,  
25 limited liability partnership, or limited liability company pursuant  
26 to this part.

27 (b) The officer, member, manager, partner, or other person shall  
28 be liable only for taxes that became due during the period he or  
29 she had the control, supervision, responsibility, or duty to act for  
30 the corporation, partnership, limited partnership, limited liability  
31 partnership, or limited liability company described in subdivision  
32 (a), plus interest and penalties on those taxes.

33 (c) Personal liability may be imposed pursuant to this section,  
34 only if the board can establish that the corporation, partnership,  
35 limited partnership, limited liability partnership, or limited liability  
36 company had included the tax in the selling price of, or added the  
37 tax to the selling price of, diesel fuel sold in the conduct of its  
38 business.

39 (d) (1) Upon suspension of a closely held corporation or closely  
40 held limited liability company, a corporate officer, shareholder,

1 or member with control over operations or management of the  
2 closely held corporation or closely held limited liability company  
3 during a time in which the corporation's or limited liability  
4 company's powers, rights, and privileges are suspended or any  
5 responsible person who fails to pay or to cause to be paid any taxes  
6 due from the closely held corporation or closely held limited  
7 liability company during a time in which the corporation's or  
8 limited liability company's powers, rights, and privileges are  
9 suspended shall, notwithstanding any provision in the Corporations  
10 Code to the contrary, be personally liable under the circumstances  
11 set forth below for any unpaid tax liability of that suspended  
12 corporation or limited liability company incurred during the period  
13 of that suspension. The corporate officer, shareholder, member,  
14 or responsible person shall be liable for the unpaid tax, and interest  
15 and penalties on those taxes not paid, regardless of the basis for  
16 the suspension of the corporation's or limited liability company's  
17 powers, rights, and privileges.

18 (2) Notwithstanding paragraph (1), if the closely held  
19 corporation or closely held limited liability company can establish  
20 that it has taken all actions necessary to qualify for revival within  
21 60 days from the date the suspension was imposed, no corporate  
22 officer, shareholder, member, or responsible person shall be held  
23 to be personally liable for any unpaid tax, interest, or penalty  
24 incurred by the corporation or limited liability company during  
25 that period of suspension.

26 (e) Personal liability under subdivision (d) applies only when  
27 the board establishes that, during the period of suspension, the  
28 closely held corporation or closely held limited liability company  
29 sold diesel fuel in the conduct of its business and collected tax on  
30 the selling price (whether separately itemized or included in the  
31 selling price) and failed to remit such tax when due.

32 (f) For purposes of subdivisions (d) and (e), all of the following  
33 definitions shall apply:

34 (1) "Closely held corporation" means a corporation in which  
35 ownership is concentrated in one individual, one family, or a small  
36 number of individuals and the majority stockholders manage the  
37 business or have delegated or assigned the management to the  
38 corporate officers.

39 (2) "Closely held limited liability company" means a limited  
40 liability company in which ownership is concentrated in one

1 individual, one family, or a small number of individuals and the  
2 majority members manage the business or have delegated or  
3 assigned the management to the company officers.

4 (3) “Control over operations or management” means the power  
5 to manage or affect day-to-day operations of the business. For the  
6 purposes of subdivisions (d) and (e), it is rebuttably presumed that  
7 a corporate or company officer has control over operations and  
8 management of the closely held corporation or closely held limited  
9 liability company, respectively.

10 (4) (i) “Period of suspension” means that period of time,  
11 beginning on the date the suspension is imposed, during which a  
12 closely held corporation or closely held limited liability company  
13 was suspended for any reason.

14 (ii) Notwithstanding clause (i), “period of suspension” does not  
15 mean a period of time of 60 consecutive days or less, beginning  
16 on the day the suspension was imposed, during which a closely  
17 held corporation or closely held limited liability company was  
18 suspended, but only if the corporation or limited liability company  
19 has taken all actions necessary to qualify for revival on or before  
20 the 60th day.

21 (5) “Responsible person” means any officer, shareholder, or  
22 member who is charged with the responsibility for the filing of  
23 returns or the payment of tax or who has a duty to act for the  
24 closely held corporation or closely held limited liability company  
25 in complying with any provision of this part, and who derives a  
26 direct financial benefit from the failure to pay the tax liability.

27 (g) A suspended corporation or limited liability company shall  
28 remain liable for the unpaid tax, interest, and penalties incurred  
29 during the period in which its corporate or limited liability company  
30 powers, rights, and privileges were suspended without regard to  
31 any personal liability determined under subdivisions (d), (e), and  
32 (f). Payments made pursuant to subdivisions (d), (e), and (f) shall  
33 be applied to the liability of the corporation or limited liability  
34 company.

35 (h) For purposes of subdivisions (a), (b), and (c), “willfully fails  
36 to pay or to cause to be paid” means that the failure was the result  
37 of an intentional, conscious, and voluntary course of action.

38 (i) Except as provided in subdivision (j), the sum due for the  
39 liability under this section may be collected by determination and

1 collection in the manner provided in Chapter 6 (commencing with  
2 Section 60201) and Chapter 7 (commencing with Section 60401).

3 (j) A notice of deficiency determination under this section shall  
4 be mailed within three years after the last day of the calendar month  
5 following the quarterly period in which the board obtains actual  
6 knowledge, through its audit or compliance activities, or by written  
7 communication by the business or its representative, of the  
8 termination, dissolution, or abandonment of the business of the  
9 corporation, partnership, limited partnership, limited liability  
10 partnership, or limited liability company, or of the suspension of  
11 the closely held corporation or closely held limited liability  
12 company, or, within eight years after the last day of the calendar  
13 month following the quarterly period in which the corporation,  
14 partnership, limited partnership, limited liability partnership, or  
15 limited liability company business was terminated, dissolved, or  
16 abandoned or in which the closely held corporation or closely held  
17 limited liability company was suspended, whichever period expires  
18 earlier. If a business or its representative files a notice of  
19 termination, dissolution, or abandonment of its business with a  
20 state or local agency other than the board, or if the Secretary of  
21 State or the Franchise Tax Board notifies a closely held corporation  
22 or closely held limited liability company that it is suspended, such  
23 filing or notice shall not constitute actual knowledge by the board  
24 under this section.

25 (k) Notwithstanding subdivision (j), when the board mails  
26 acknowledgment to a closely held corporation or closely held  
27 limited liability company that the closely held corporation or  
28 closely held limited liability company has been suspended and the  
29 acknowledgment is mailed within three years of the date on which  
30 the board obtained actual knowledge as described in subdivision  
31 (j) of the suspension of the closely held corporation or closely held  
32 limited liability company, a notice of deficiency determination  
33 under this section shall be mailed, at the latest, within three years  
34 after the last day of the calendar month following the quarterly  
35 period following the revival of that closely held corporation or  
36 closely held limited liability company.

37 ~~SEC. 14.~~

38 *SEC. 16.* Section 1088.5 of the Unemployment Insurance Code  
39 is amended to read:

1 1088.5. (a) In addition to information reported in accordance  
2 with Section 1088, effective July 1, 1998, each employer shall file,  
3 with the department, the information provided for in subdivision  
4 (b) on new employees.

5 (b) Each employer shall report the hiring of any employee who  
6 works in this state and to whom the employer anticipates paying  
7 wages.

8 (c) (1) This section shall not apply to any department, agency,  
9 or instrumentality of the United States.

10 (2) State agency employers shall not be required to report  
11 employees performing intelligence or counterintelligence functions,  
12 if the head of the agency has determined that reporting pursuant  
13 to this section would endanger the safety of the employee or  
14 compromise an ongoing investigation or intelligence mission.

15 (d) (1) Employers shall submit a report as described in  
16 paragraph (4) within 20 days of hiring any employee whom the  
17 employer is required to report pursuant to this section.

18 (2) Notwithstanding subdivision (a), employers transmitting  
19 reports magnetically or electronically shall submit the report by  
20 two monthly transmissions not less than 12 days no more than 16  
21 days apart.

22 (3) For purposes of this section, an employer that has employees  
23 in two or more states and that transmits reports magnetically or  
24 electronically may designate one state in which the employer has  
25 employees to which the employer will transmit the report described  
26 in paragraph (4). Any employer that transmits reports pursuant to  
27 this paragraph shall notify the Secretary of Health and Human  
28 Services in writing as to which state the employer designates for  
29 the purpose of sending reports.

30 (4) The report shall contain the following:

31 (A) The name, address, and social security number of the  
32 employees.

33 (B) The employer's name, address, state employer identification  
34 number (if one has been issued), and identifying number assigned  
35 to the employer under Section 6109 of the Internal Revenue Code  
36 of 1986.

37 (C) The first date the employee worked.

38 (5) Employers may report pursuant to this section by submitting  
39 a copy of the employee's W-4 form, a form provided by the



1 department, or any other hiring document transmitted by first-class  
2 mail, magnetically, or electronically.

3 (e) For each failure to report the hiring of an employee, as  
4 required and within the time required by this section, unless the  
5 failure is due to good cause, the department may assess a penalty  
6 of twenty-four dollars (\$24), or four hundred ninety dollars (\$490)  
7 if the failure is the result of conspiracy between the employer and  
8 employee not to supply the required report or to supply a false or  
9 incomplete report.

10 (f) Information collected pursuant to this section may be used  
11 for the following purposes:

12 (1) Administration of this code.

13 (2) Locating individuals for purposes of establishing paternity  
14 and establishing, modifying, and enforcing child support  
15 obligations.

16 (3) Administration of employment security and workers'  
17 compensation programs.

18 (4) Providing employer or employee information to the  
19 Franchise Tax Board and the State Board of Equalization for the  
20 purpose of tax or fee enforcement.

21 (5) Verification of eligibility of applicants for, or recipients of,  
22 the public assistance programs listed in Section 1320b-7(b) of Title  
23 42 of the United States Code.

24 (g) For purposes of this section, "employer" includes a labor  
25 union hiring hall.

26 (h) This section shall become operative on July 1, 1998.

O